

## REMARKS/ARGUMENTS

By this Amendment, no claims have been amended, claims 17 and 18 have been canceled and no new claims have been added to the application. Accordingly, claims 1-16, 19 and 20 are pending in the application. No new matter has been added.

In the prior Office Action, the Examiner issued an election/restriction requirement upon concluding that the application included claims drawing to two patentably distinct invention groups, namely:

Group I, claims 1-16, 19 and 20, drawn to particles and methods of making them;

Group II, claims 17 and 18, drawn to an apparatus for making particles.

Applicant hereby elects, without traverse, to prosecute the Group I invention, which encompasses claims 1-16, 19 and 20. Claims 17 and 18, which read on the non-elected Group II invention, have been canceled without prejudice.

Also in the prior Office Action, the Examiner noted that if the Group I invention was elected, applicant was further required to elect a species. Applicant hereby elects the species 1(a)/2(b) as defined by the Examiner (i.e., wherein the emulsion has a discontinuous phase comprising the melt and a continuous phase comprising the polar solvent). Claims 1-9 and 19 read on the elected species. No claims are generic.

In light of the foregoing, it is respectfully submitted that the present application is in condition for allowance and a notice to that effect is hereby requested. If it is determined that the application is not in a condition for allowance, the Examiner is invited to initiate a telephone interview with the undersigned attorney to expedite prosecution of the present application.

Application No. 10/541,292  
Amendment dated March 16, 2010  
Reply to Office action of March 3, 2010

If there are any additional fees resulting from this communication, please charge the same to Deposit Account No. 18-0160, Order No. FER-14669.001.001.

Respectfully submitted,

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